

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

DARIUS MILLER and DARA MILLER,

Plaintiffs,

v.

SECURITY LIFE OF DENVER INSURANCE  
COMPANY, a Colorado corporation; ING  
AMERICA EQUITIES INC., a Colorado  
corporation; SOUTHLAND LIFE INSURANCE  
COMPANY, a Texas corporation, and DOES 1  
through 50, inclusive,

Defendants.

No. C-11-01175 PJH

**STIPULATION AND [PROPOSED]  
ORDER RE: EXTENDING TIME  
FOR DISCOVERY DEADLINES**

Pursuant to Civil Local Rule 6-2, plaintiffs Darius Miller and Dara Miller ("plaintiffs") and defendants Security Life of Denver Insurance Company and ING America Equities, Inc. ("defendants"), through their respective counsel, submit the following stipulation and proposed order re: extending time for discovery deadlines.

WHEREAS, on July 8, 2011 the Court issued a Case Management and Pretrial Order setting a Non-Expert Discovery Cutoff on December 30, 2011, Disclosure of Experts on January 4, 2012, and Expert Discovery Cutoff of February 15, 2012; and

WHEREAS, the Court also referred the matter to private mediation to be completed within 150 days; and

1 WHEREAS, on August 26, 2011 defendants filed a Third-Party Complaint against  
2 Third-Party Defendants Aviva Life and Annuity Company ("Aviva"), and George W. Shaeffer  
3 ("Shaeffer"); and

4 WHEREAS, on October 7, 2011, Entry of Default as to Shaeffer was entered; and  
5 WHEREAS, on October 24, 2011, Aviva filed a Motion to Dismiss, set for hearing  
6 on December 14, 2011; and

7 WHEREAS, on October 31, 2011, Aviva declined defendants' request that it  
8 participate in the mediation, asserting that "the Third Party Complaint was filed against AVIVA on  
9 August 26, 2011, after entry of a court order requiring mediation;" and

10 WHEREAS, on November 11, 2011, plaintiffs and defendants held a mediation  
11 before the Hon. Ronald M. Sabraw (Ret.); and

12 WHEREAS, plaintiffs and defendants believe that the presence of all plaintiffs,  
13 defendants, and third-party defendants – including Aviva – would materially assist in a resolution  
14 of this case; and

15 WHEREAS, to obtain Aviva's participation, plaintiffs and defendants agreed to a  
16 subsequent mediation before the Hon. Ronald M. Sabraw (Ret.) on the earliest available, mutually  
17 agreeable, date in January 2012; and

18 WHEREAS, upon the resolution of Aviva's December 14, 2011 motion to dismiss,  
19 defendants will request the Court to order the participation of Aviva in the mediation; and

20 WHEREAS, Aviva has refused to stipulate or agree to participate in mediation; and

21 WHEREAS, plaintiffs and defendants desire the mediation to occur prior to the  
22 parties incurring costs associated with completing all depositions and designating experts; and

23 WHEREAS, plaintiffs and defendants agree that an extension of the deadlines for  
24 discovery cutoff dates and expert designation dates would facilitate settlement, and would not  
25 require a modification of the schedule for the case; and

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1 NOW, THEREFORE, plaintiffs and defendants, through their respective counsel of  
2 record, hereby stipulate and jointly request that the Court enter an Order as follows:

- 3 1. That the Non-Expert Discovery Cutoff be moved to February 29, 2012; and  
4 2. That the Disclosure of Experts be moved to March 7, 2012; and  
5 3. That the Expert Discovery Cutoff be moved to April 15, 2012; and

6 SO STIPULATED, THAT THE DISCOVERY DATES SHALL BE EXTENDED  
7 AS SET FORTH ABOVE.

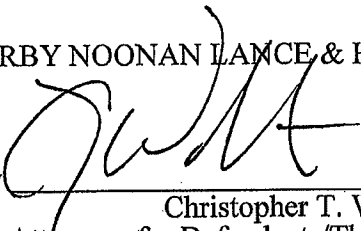
8 DATED: December 8, 2011

9 BARTKO, ZANKEL, TARRANT & MILLER  
10 A Professional Corporation

11 By   
12 Brian P. Villarreal  
13 Attorneys for Plaintiffs  
DARIUS MILLER and DARA MILLER

14 DATED: December 8, 2011

15 KIRBY NOONAN LANCE & HOGE LLP

16 By   
17 Christopher T. Wright  
18 Attorneys for Defendants/Third-Party Plaintiffs  
19 SECURITY LIFE OF DENVER INSURANCE  
20 COMPANY and ING AMERICA EQUITIES, INC.

21 Pursuant to Stipulation, IT IS SO ORDERED:

22 DATED: December 12, 2011

